



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

JAN 20 2016

Mr. Karl H. Nolte III
Facility Manager
Air Products and Chemicals, Inc.
357 Marian Ave
Tamaqua, PA 18252

Re: Notice of Violation
EPA ID No. PAD069778967

Docket Number: R3-16-NOV-RCRA-010

Dear Mr. Nolte

On June 29, 2015, the U.S. Environmental Protection Agency, Region III ("EPA") received a referral from the U.S. Environmental Protection Agency Headquarters International Compliance Assurance Division ("EPA ICAD") regarding discrepancies in the 2012 and 2013 Primary Exporter of Hazardous Waste Annual Reports submitted by Air Products and Chemicals, Inc. ("APCI" or "Facility"). Based on the information in the referral and from subsequent information gathering, EPA has determined that the Facility has violated regulations under the federally authorized Commonwealth of Pennsylvania Hazardous Waste Management Regulations ("PaHWMR") and the Resource Conservation and Recovery Act ("RCRA") as amended, 42 U.S.C. Sections 6901 et seq. As a result of this determination, EPA Region III is issuing this Notice of Violation ("NOV"). The specific violation is as follows:

1. The Facility failed to maintain and provide copies of its notifications of intent to export when requested in an Information Request Letter sent to APCI by EPA on August 25, 2015. Therefore, the Facility is in violation of 25 PA 262a.10 which incorporates by reference the federal regulation 40 CFR 262.57(a)(1) that a facility must maintain copies of each notification of intent to export for a period of at least 3 years.

Within **fifteen (15) calendar days** of the receipt of this NOV, please submit documentation of any measures the Facility has taken or is taking to achieve compliance with the violation noted above. If the compliance measures identified are planned or are ongoing, please provide a schedule for when they will be completed. If the Facility can provide documentation which shows that EPA's determination of the alleged violation is in error, please submit this information as well.



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Section 3008(a) of RCRA authorizes the EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day for each violation. In addition, failure to achieve and maintain compliance with the regulation cited in this NOV may be treated as a repeated offense and may constitute a "knowing" violation of Federal Law.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA enforcement actions. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Your response to this NOV shall be addressed to:

Rebecca Serfass
U.S. Environmental Protection Agency – Region III
1650 Arch Street
Philadelphia, PA 19103

If you have any questions regarding this matter, please feel free to contact Ms. Rebecca Serfass at (215) 814-2047 or at Serfass.Rebecca@epa.gov.


Carol Amend, Associate Director
Office of Land Enforcement
Land and Chemicals Division

Jan 20, 2016
Date

Enclosures

cc: R. Serfass (3LC70)
A. Ma (3LC70)
P. Belgiovane (3LC70)
M. Gross (PADEP)